



LAWYER'S ROADMAP TO THE LAND COURT

Learn everything you need to know to jumpstart your
Land Court practice

Hon. Gordon H. Piper, Land Court Chief Justice
Lauren E. Reznick, Esq., Land Court Legal Counsel

MCLE
April 10, 2024

Agenda



- Land Court basics
- History & Jurisdiction
- Court business units
 - Recorder's Office
 - Title Examination Dept.
 - Survey Division
- Unique case types
 - Servicemembers
 - Tax Foreclosures
- Land registration system
 - Fundamentals
 - "Subsequent" cases
 - When to go to the Registry vs. the Court
- "Miscellaneous" cases
 - Practice before the Judges
- Practical Tips
- What's new?
- Q&A



Land Court Basics

Land Court Basics

Land Court Department of the Trial Court
Suffolk County Courthouse
Three Pemberton Square
Boston, MA 02108
617-788-7470

5th Floor = Recorder's Office
4th & 11th Floors = Courtrooms

- Specialized in real estate and land use matters and the administration of the registered land system
- Statewide jurisdiction
- Individual judicial case assignment
- 1 Chief Justice, 6 Associate Justices
- 6 courtrooms

The Suffolk County Courthouse (“High Rise”)



Photo Credit: cmh2315fl © (from [flickr](#))





Land Court History & Jurisdiction



Land Court History

- Oct. 1, 1898 – The “Land Registration Act” went into effect
- Oct. 14, 1898 – the “Court of Registration” opened for business
 - In 1900, the name was changed to the “Court of Land Registration”
 - In 1904, the name was settled as the “Land Court”
- Originally, the court’s jurisdiction was limited to hearing and determining applications for the registration of title, and all questions relating thereto
- It did not take long to realize that a court specializing in property and title could do a lot more...

Land Court History



1904

- Writ of entry
- Try title
- Validity of encumbrances
- Mortgage discharges

1931

- Quiet title
- Remove cloud on title
- Confirmation

1915

- Enforceability of equitable restrictions
- Redemption and foreclosure of property tax titles

Land Court History



1934

- Cases “where any right title or interest in land is involved”
- Validity and extent of zoning laws (c. 240, § 14A)

1975

- Trespass to real estate involving title

1943

- Cases under the federal law known as the Servicemembers’ Civil Relief Act (SCRA) (formerly called the “Soldiers’ & Sailors’ Civil Relief Act”)

Land Court History



1986

- All complaints affecting title to registered land

2003

- Partition (c. 241)
- Specific performance
- Recover land of the Comm.

1987

- Subdivision appeals (c. 41, § 81BB)
- Zoning appeals (c. 40A, § 17)

2006

- Permit Session (c. 185, § 3A)

Land Court Jurisdiction - Today



SERVICEMEMBERS

Pre-mortgage
foreclosure verification
of whether mortgagor is
entitled to benefits of the
federal SCRA



TAX LIEN FORECLOSURE

Foreclosure for failure
to pay municipal
property taxes or fees
and assessments

Tyler v. Hennepin Co.,
598 U.S. 631 (2023)



REGISTERED LAND

- Registration
- Confirmation
- Subsequent
- Survey plans
- Condominiums
- Document Approvals



MISCELLANEOUS

- Title disputes
- Land use, zoning, &
subdivision appeals
- Partition
- Other





Land Court Business Units

Recorder's Office

Deborah J. Patterson, **RECORDER**

Ellen M. Kelley, **DEPUTY RECORDER**

Mary A. Armstrong, **ASSISTANT CLERK**

Panoraia Naseli, **OFFICE MANAGER**

Suffolk County Courthouse, 5th Floor



Hours: 8:30 a.m. – 4:30 p.m.

- File new cases and submit filings in cases (if eFile is not mandated)
- Pay filing fees or court costs
- Access court files and obtain summonses, copies, or archived files
- Discuss your pending matter with a court Title Examiner or Survey Specialist
- Public access terminals to search dockets and conduct research



Title Examination: Tax Lien Foreclosure

Deborah J. Patterson, **RECORDER**
Ellen M. Kelley, **DEPUTY RECORDER**
ATTORNEY TITLE EXAMINERS (2-3)
SESSIONS CLERK & SUPPORT STAFF



- Recorder (& Deputy Recorder) have the same powers as a clerk-magistrate in the superior court department and have authority to hear and rule on petitions for tax foreclosure under c. 60. (G.L. c. 185, § 6)
- The Attorney Title Examiners review all Tax Lien Foreclosure complaints and title reports for accuracy and completeness, and to send service to all interested parties by citation.
- Staff are available to attorneys and the public for all questions related to tax lien foreclosure cases and court procedures.

Title Examination: Registered Land

Christina T. Geaney, CHIEF TITLE EXAMINER
ATTORNEY TITLE EXAMINERS (~10)
CASE COORDINATORS & SUPPORT STAFF



- The Chief Title Examiner manages the court's registered land business and oversees the Attorney Title Examiners.
- Attorney Title Examiners work with the Justices on finalizing registration and confirmation cases, and in issuing court orders in "subsequent cases" involving registered land transactions.
 - They also review condominiums and approve documents for registration with the Registered Land Districts in the Registries of Deeds (the "Land Court desks") and answer questions from Registry staff on registered land matters.
- Contact the Registered Land Dept. at LandCourt.Title@jud.state.ma.us

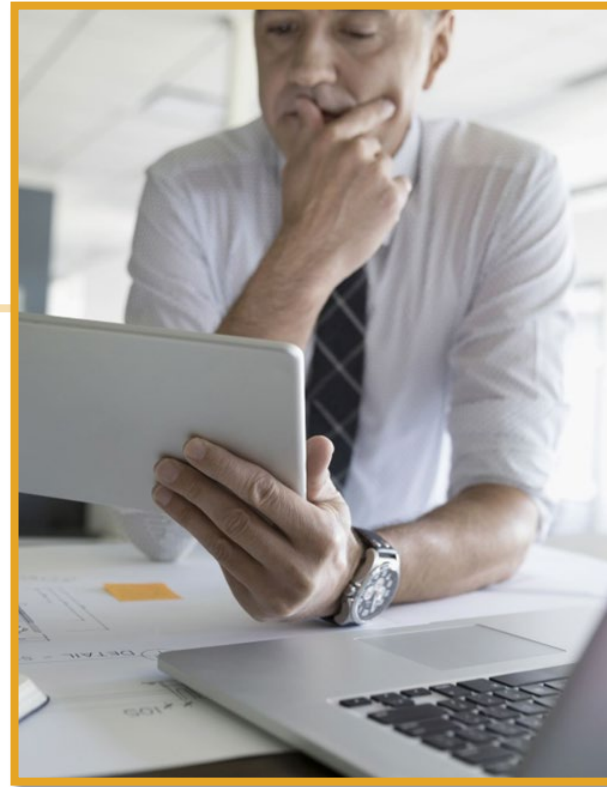
Survey Division

Stephen T. LaMonica, CHIEF SURVEYOR

John A. Vitale, DEPUTY SURVEYOR

SURVEY SPECIALISTS (3-4)

- The Survey Division is responsible for maintaining the court's repository of registered land plans and survey records.
- Survey Division records (including survey plans, Land Court plans, survey data, calculations & correspondence) are available for public viewing at the Suffolk County Courthouse, 3 Pemberton Square, Boston, 4th Floor.
- Many survey records are also available electronically and can be viewed and downloaded at no cost on the Survey Public Access website at <https://LCsurveyaccess.jud.state.ma.us/>



Judge's Lobby & Administrative Office

Gordon H. Piper, **CHIEF JUSTICE**

Jill K. Ziter, **DEPUTY COURT ADMINISTRATOR (DCA)**

Lauren Reznick, **LEGAL COUNSEL & ASST. DCA**

- Each Justice works with a Sessions Clerk and Law Clerk to manage their pending docket, scheduling, and case work.
- The Administrative Office supports the court's business units with implementing policy, procedures, technology, and more.
 - Budgeting and legislation impacting the court
 - Implementation of eCourts technologies (eFiling, eDelivery, etc.)
 - Strategic planning and Trial Court Executive Office policies
 - Promulgation of Court Rules, Standing Orders, and Guidelines
 - Litigation involving the Court





Land Court Jurisdiction & Unique Case Types

Land Court Jurisdiction - Today



SERVICEMEMBERS

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foreclosure verification
of whether mortgagor is
entitled to benefits of the
federal SCRA



TAX LIEN FORECLOSURE

Foreclosure for failure
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property taxes or fees
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Tyler v. Hennepin Co.,
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REGISTERED LAND

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- Document Approvals



MISCELLANEOUS

- Title disputes
- Land use, zoning, &
subdivision appeals
- Partition
- Other



Land Court Webpage



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Land Court

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About the Land Court

The Land Court hears a wide range of cases involving real estate and land use, and oversees the Commonwealth's system for the registration of title to real property.

The Land Court's mission is to provide an accessible forum where specialized expertise is applied to resolve civil matters and disputes involving the ownership, development, and use of real property (i.e. Land). The seven justices of the Land Court primarily sit in Boston, where the court is based, but also travel to other court locations, and hear cases involving real property located in every part of Massachusetts. Typical Land Court cases concern: land title disputes--about ownership, easements, and property boundaries; mortgage title issues; zoning and subdivision appeals, challenges and enforcement proceedings; actions to enforce contracts to buy and sell real estate; partition proceedings; cases to interpret and reform conveyancing instruments, and generally cases seeking equitable and declaratory relief where real estate title interests are involved. Additionally, the Land Court hears cases to determine the military status of mortgagors, and the foreclosure and redemption of real estate tax liens. The Land Court also has superintendence authority over the registered land offices in the county Registries of Deeds, and daily plays an important role in facilitating the transfer of registered land property ownership.

[Land Court location](#)

[Most requested](#) [Events](#) [Services](#) [Topics](#)

Most Requested

[Land Court forms](#)

[Partition Cases Frequently Asked Questions](#)

[Land Court Tax Lien Foreclosure Resources](#)

[Land Court Servicemembers Resources](#)

[Land Court Registered Land Resources](#)

Events

Apr
10

MCLE Online Seminar: Lawyer's Roadmap to the Land Court
2 p.m. - 5 p.m.

Learn everything you need to know to jumpstart your Land Court practice from the court's Chief Justice and Legal Counsel

[See all events](#)

<https://www.mass.gov/orgs/land-court>

Land Court Webpage



Most requested Events Services Topics Search this organization

Land Court Services

[Land Court Rules and Standing Orders →](#)[Land Court Daily List →](#)[eFiling in the Land Court →](#)[Look up a Land Court Case →](#)[Land Court Survey Division →](#)[Land Court MassCourts Filing Reports →](#)

[Collapse all](#)

More information (6)

- [Land Court Judicial Internship Information](#) (English, PDF 67.19 KB)
- [Court Data, Metrics & Reports →](#)
- [Published Land Court Opinions \(2008-date\) →](#)
- [Additional Land Court Resources →](#)
- [Land Court Jurisdiction, History, & Evolution of Title →](#)
- [Learn About Fee Generating Appointments in the Land Court →](#)

[Remote public access to Land Court events →](#)[Land Court Alternative Dispute Resolution \(ADR\) →](#)[Order the audio of a Land Court proceeding →](#)[Access to Land Court Case Files →](#)[Order a Survey Plan Reproduction →](#)[Service of process in the Land Court →](#)

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> Massachusetts Court System > Land Court

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Land Court Survey Division

The Land Court Survey Division maintains the Commonwealth's registered land records dating back to 1898.

All Land Court Survey Division records are available for public viewing at the Land Court Survey Division offices in the Suffolk County Courthouse, 3 Pemberton Square, Boston, 4th Floor. These records consist of survey plans and Land Court plans, survey data, calculations & correspondence.

Many of the survey records created after 2000 are available electronically. The electronic records can be found by searching on the Public Access website at the link below. The Land Court Public Access website is self-service. Document and plan images can be viewed & downloaded at no cost to the user.

Survey records that are not available electronically on the Public Access website may be requested for a fee by clicking the link below to Order a Survey Plan Reproduction.

Featured resources

[Public Access Search of Survey Records →](#)[Order a Survey Plan Reproduction →](#)[Land Court 2006 Manual of Instructions for the Survey of Lands and Preparation of Plans](#) (PDF 497.76 KB)[Procedure for Pre-file Review of Proposed Subdivision →](#)

<https://www.mass.gov/orgs/land-court>



Servicemembers' Cases

A brief primer.

For more details, please visit: [Land Court Servicemembers Cases Resources | Mass.gov](#)

Land Court Webpage - Servicemembers Resources



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Land Court Servicemembers Cases Resources

The Land Court hears cases to determine a homeowner's military status and eligibility for protections under the federal law known as the Servicemembers Civil Relief Act (SCRA) prior to a mortgage foreclosure.



A Servicemembers case is a type of court case brought by a bank or other mortgage holder against a property owner who has defaulted on their mortgage. A Servicemembers case is not a foreclosure. Mortgage foreclosures in Massachusetts generally are not conducted by courts. Before going ahead with a mortgage foreclosure, a mortgage holder can bring a Servicemembers case. It is brought to determine one thing: if the property owner is entitled to protections the law gives to certain members of the military and their dependents.

In a Servicemembers case, the mortgage holder (plaintiff) asks the court to determine whether anyone with an ownership interest in the property (defendant) is entitled to the protections of the federal law known as the Servicemembers Civil Relief Act (SCRA) (previously known as the Soldiers' and Sailors' Civil Relief Act of 1940). The SCRA is a federal law that in some cases protects people who serve on active duty for the nation's defense from negative effects on their legal rights because of this service. The SCRA includes protections related to home mortgage foreclosures. Massachusetts has enacted its own state procedure so a court can determine whether or not a defendant is entitled to SCRA protections. In this way, lenders can make sure they comply with the federal SCRA before starting a mortgage foreclosure. A mortgagee (usually a bank or mortgage company) wishing to be sure it will not violate the protections for an eligible servicemember, may file a Servicemembers case in the Land Court or the Superior Court and ask that court to determine whether anyone with an ownership interest in the property is entitled to benefits under the SCRA.

Featured resources

[FAQs about Servicemembers cases in the Land Court](#)

[Learn about the Servicemembers Civil Relief Act \(SCRA\)](#)

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> Massachusetts Court System > Land Court > Land Court Servicemembers Cases Resources

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Frequently asked questions about Servicemembers cases in the Land Court

A Servicemembers case is a type of court case brought by a bank or other mortgage holder against a property owner who has defaulted on their mortgage. A Servicemembers case is not a foreclosure.

Mortgage foreclosures in Massachusetts generally are not conducted by courts. Before going ahead with a mortgage foreclosure, a mortgage holder can bring a Servicemembers case. It is brought to determine one thing: if the property owner is entitled to protections the law gives to certain members of the military and their dependents.

In a Servicemembers case, the mortgage holder (plaintiff) asks the court to determine whether anyone with an ownership interest in the property (defendant) is entitled to the protections of the federal law known as the Servicemembers Civil Relief Act (SCRA) (previously known as the Soldiers' and Sailors' Civil Relief Act of 1940). The SCRA is a federal law that in some cases protects people who serve on active duty for the nation's defense from negative effects on their legal rights because of this service. The SCRA includes protections related to home mortgage foreclosures. Massachusetts has enacted its own state procedure so a court can determine whether or not a defendant is entitled to SCRA protections. In this way, lenders can make sure they comply with the federal SCRA before starting a mortgage foreclosure. A mortgagee (usually a bank or mortgage company) wishing to be sure it will not violate the protections for an eligible servicemember, may file a Servicemembers case in the Land Court or the Superior Court and ask that court to determine whether anyone with an ownership interest in the property is entitled to benefits under the SCRA.

The following FAQs provide information and a general summary of the Servicemembers case process for cases filed in the Land Court. The federal SCRA is found at 50 U.S.C. § 3901, *et seq.* The state law establishing the procedures for Servicemembers cases is found in Chapter 57 of the Acts of 1943, as amended through Chapter 142 of the Acts of 1998.



Federal SCRA **vs.** State Servicemembers Case

Federal SCRA – Provides substantive and procedural protections to *active duty servicemembers* and their dependents.

- Foreclosure against a servicemember is invalid unless the mortgagee obtains a court order or a written waiver.

Servicemembers Case – A case filed in Land Court or Superior Court to decide if a mortgagor is entitled to SCRA protections (Ch. 57 of the Acts of 1943, as amended).

- Only determines the mortgagor's military status and any SCRA protections.
- Mortgagor may not raise any foreclosure defense except entitlement to SCRA protections.
- Servicemember judgment **NOT** required in MA to foreclose lawfully. *Beaton v. Land Ct.*, 367 Mass. 385 (1975).





Servicemembers' Cases Primer

- Servicemembers' cases are pre-foreclosure (***NOT*** part of the foreclosure process).
- The filer must be the holder of the mortgage and note or acting on behalf of the holder.
 - SM Cases do not need to be brought against corporate entities.
- Filer submits Mortgagee's Affidavit and Affidavit as to Military Service, available at [Land Court forms | Mass.gov](#)
- The court issues an Order of Notice, which gets mailed, posted, and recorded/registered.
- Defendants may only answer to assert their rights under the federal SCRA.
- If none are entitled to SCRA benefits, the court issues judgment.
- Judgment recorded/registered with foreclosure documentation.

SM Order of Notice

Bk: 69411 Pg: 300

Date Filed: 9/1/2023 9:31 AM
Land Court
Docket Number:

COMMONWEALTH OF MASSACHUSETTS

(SEAL)

LAND COURT

DEPARTMENT OF THE TRIAL COURT

Docket 23 SM 003347

ORDER OF NOTICE

TO:

Heirs, Devisees and Legal Representatives of the Estate of

and to all persons entitled to the benefit of the Servicemembers Civil Relief Act; 50 U.S.C. 50 §3901 (et seq):

HSBC Bank USA, N.A., as Indenture Trustee for the registered Noteholders of Renaissance Home Equity Loan Trust 2007-1,

claiming to have an interest in a Mortgage covering real property in **Boston (Hyde Park)**, numbered given by

and now held by plaintiff by assignment, has/have filed with this court a complaint for determination of Defendant's/Defendants' Servicemembers status.

If you now are, or recently have been, in the active military service of the United States of America, then you may be entitled to the benefits of the Servicemembers Civil Relief Act. If you object to a foreclosure of the above-mentioned property on that basis, then you or your attorney must file a written appearance and answer in this court at **Three Pemberton Square, Boston, MA 02108** on or before 10/23/2023 or you may lose the opportunity to challenge the foreclosure on the ground of noncompliance with the Act.

Witness, GORDON H. PIPER Chief Justice of this Court on 9/1/2023

Attest:

A TRUE COPY
ATTEST:

Deborah J. Patterson
RECORDER

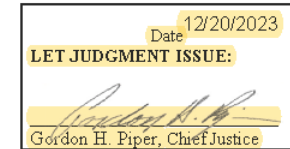
Deborah J. Patterson
Recorder

(PLEASE SEE REVERSE FOR RETURN ON ORDER OF NOTICE)

20-006881

SM Judgment

Date Filed: 9/1/2023 9:31 AM
Land Court
Docket Number:



COMMONWEALTH OF MASSACHUSETTS

LAND COURT

DEPARTMENT OF THE TRIAL COURT

Suffolk, ss.

Docket

HSBC Bank USA, N.A., as Indenture Trustee for the registered Noteholders of Renaissance Home Equity Loan Trust 2007-1,
Plaintiff

**COMPLAINT TO DETERMINE
MILITARY STATUS**

v.

Heirs, Devisees and Legal Representatives of the Estate of

Defendants

1. Your Plaintiff has an interest in a mortgage with the statutory power of sale given by

more particularly described in said mortgage. covering , **Boston (Hyde Park)**, and

2. No Defendant(s) is/are in the military service within the meaning of the Servicemembers Civil Relief Act, 50 U.S.C. c. 50 §3901 (et seq)

3. The Plaintiff alleges on information and belief that the Defendant(s) is/are the only person(s) holding the equity of redemption of the property covered by the mortgage described in Paragraph 1 of this Complaint so far as appears of record in the said Registry of Deeds and as known to your plaintiff.

4. The holder of the mortgage seeks to proceed with the foreclosure of said mortgage described in Paragraph 1 to protect its interest as secured thereby for breach of the conditions thereof and desires to comply with the provisions of the Servicemembers Civil Relief Act

Wherefore your plaintiff prays:

1. For an order of notice ordering the Defendant(s) to appear and answer this complaint if Defendant(s) is/are now, or recently have been, in the active military service and claim the benefits of the Servicemembers Civil Relief Act.
2. For a judgment declaring that the Defendant(s) is/are not entitled to the benefits of the Servicemembers Civil Relief Act.



Servicemembers' Cases Primer



*Fee Generating
Appointment
Opportunity!*

If a Defendant's Answer asserts SCRA rights...

1. Court Appointment of Military Attorney

- Contact the Defendant, investigate Defendants' military status, and report to court on whether Defendant might be entitled to benefits of the SCRA.
- Determine if a meritorious defense exists.
- Move for a stay.

2. Judicial review

- Court may grant a stay of the case until such time as the Servicemember may participate in the matter.
- Court may "adjust the obligation to preserve the interests of all parties."



Tax Lien Foreclosure Cases

A brief primer.

For more details, please visit: [Land Court Tax Lien Foreclosure Cases Resources | Mass.gov](#)

Land Court Webpage - Tax Lien Foreclosure Resources



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Massachusetts Court System > Land Court

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Land Court Tax Lien Foreclosure Cases Resources

The Land Court has jurisdiction over all tax lien foreclosures in Massachusetts.

A tax lien foreclosure is a type of court case in which a city or town (or sometimes a third party) can seek to obtain full ownership of property if the property taxes, water bills, or sewer bills are not paid. The resources on this page provide a general summary of and information related to the tax lien foreclosure process that appears in Chapter 60 of the Massachusetts General Laws. These resources only provide a broad overview. The tax lien foreclosure process is complicated and has strict deadlines; if your property is or may become subject to a tax lien foreclosure, you should seek legal advice, if possible.

Featured links

- Tax lien foreclosure informational outline →
- FAQs about tax lien foreclosure cases →
- Helpful resources related to tax lien foreclosure cases →

Additional resources

- Simple chart of the tax lien foreclosure process →
- eFiling in the Land Court →
- Complete and file a tax lien answer online →

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Massachusetts Court System > Land Court > Land Court Tax Lien Foreclosure Cases Resources

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Helpful links and resources related to tax lien foreclosure cases

A compilation of helpful links and resources related to Land Court tax lien foreclosure cases.

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- Helpful links and resources
- Contact

Helpful links and resources

- Massachusetts law about property taxes
- Tallage Lincoln, LLC v. Jessye L. Williams, 485 Mass. 449 (2020)
- Land Court forms
- M.G. L. c. 60, Collection of local taxes
- Simple Introductory Tax Lien Flowchart
- Supplemental Tax Lien Citation Notice explaining risks of foreclosure
- Land Court Statement on Tyler v. Hennepin County Minnesota
- Supreme Court Opinion in Tyler v. Hennepin County

CONTACT

Land Court

Online
Land Court location →

Phone
Main (617) 788-7470
TTY (617) 788-8956

more contact info →

Land Court Webpage - Tax Lien Foreclosure Resources



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Massachusetts Court System > Land Court > Land Court Tax Lien Foreclosure Cases Resources

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Tax lien foreclosure informational outline

A tax lien foreclosure is a process through which you can lose ownership of your property if you do not pay your real estate taxes or water/sewer bill. This foreclosure can result in you losing your property entirely, even if the amount you owe is much less than your property's value.

However, if your property is foreclosed, and it is worth more than the tax debt owed, you still can claim compensation from the Plaintiff for the excess value (the "equity") of the property, even if you no longer own it. For more information about home equity compensation, review: [Land Court Statement on Tyler v. Hennepin County Minnesota](#).

The foreclosure process includes a case in the Land Court. [Chapter 60 of the Massachusetts General Laws](#) is the law that establishes the process for tax lien foreclosures.

This Land Court Tax Lien Foreclosure Informational Outline is intended to provide a general overview to self-represented litigants, taxpayers, and attorneys on the tax lien process. The outline provides a summary of the process, from the collection of the real estate tax or water/sewer bills to steps that parties can take after the court issues a Judgment. The outline also contains a definitions section in the beginning, and available resources and sample documents at the end. Some of the resources listed at the end of the outline are legal service organizations. These organizations might be able to provide information to taxpayers both before and after a case is filed at the Land Court. The outline also provides information on remedies that might be available to taxpayers before a tax lien foreclosure if the taxpayer is not able to afford their real estate taxes.

The processes, legal requirements, and deadlines in tax lien foreclosure cases are very technical and complicated. This guide does not include everything you may need to know if your property is subject to a tax lien foreclosure. If you do not answer the complaint, appear at hearings, and defend, you may end up permanently losing ownership of your property. If a tax lien foreclosure case concerning your property has been filed in the Land Court, you should seek advice from a lawyer, if possible. More information is available on the Land Court's website at [Land Court Tax Lien Foreclosure Cases Resources](#).

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Massachusetts Court System > Land Court > Land Court Tax Lien Foreclosure Cases Resources

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Frequently asked questions about tax lien foreclosure cases in the Land Court

A tax lien foreclosure is a process through which you can lose ownership of your property if you do not pay your real estate taxes or water/sewer bill. This foreclosure will result in you losing the entire title to your property, even if the amount you owe is much less than your property's value.

However, if your property is foreclosed, and it is worth more than the tax debt owed, you still can claim compensation from the Plaintiff for the excess value (the "equity") of the property, even though you no longer own it. For more information about home equity compensation, review: [Land Court Statement on Tyler v. Hennepin County Minnesota](#).

The following FAQs provide a very general summary of the tax lien foreclosure process and the tax lien foreclosure cases that are filed in the Land Court. The law establishing the process for tax lien foreclosures is [Chapter 60 of the Massachusetts General Laws](#).

The processes, legal requirements, and deadlines in tax lien foreclosures are very complicated. These FAQs do not include everything you may need to know if your property is subject to a tax lien foreclosure. If you do not answer the complaint, appear at hearings, and defend, you may end up permanently losing ownership of your property. If a tax lien foreclosure case concerning your property has been filed in the Land Court, you should seek advice from a lawyer. More information on tax lien foreclosures is available on the Land Court's website at [Land Court Tax Lien Foreclosure Cases Resources](#) | [Mass.gov](#).

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- General information
- The process of a tax lien foreclosure case
- Contact



Massachusetts
Land Court

THE TAX LIEN FORECLOSURE PROCESS

If you fail to pay your local taxes or water/sewer bills by their due date, it could result in foreclosure. Below are the general steps in the tax lien foreclosure process in Massachusetts.

There are other more detailed steps, requirements, options, and deadlines.

For more information, go to the Land Court website at

<https://www.mass.gov/land-court-tax-lien-foreclosure-cases-resources>

1 The Property Owner Fails to Pay



When a city or town assesses property taxes or water/sewer charges, it automatically obtains a lien on the property. If your property tax bill or water/sewer bill is unpaid for 30 days, the city or town can try to collect payment. It does this by sending a demand for payment to the last, best address of the property owner.

2 The City/Town Records a "Tax Taking" of the Property



If you do not pay within 14 days of the demand, the city or town can record a document called a "tax taking" or "instrument of taking" at the Registry of Deeds. The city or town gets title to the property, but will have to give the title back if you pay all that is due before a final foreclosure by the Court. The city or town then can pursue a legal claim against the property for the amount owed. This can include delinquent charges, fees, and interest. (See [FAQ #3](#))

3 A Private Party Can Become Owner of the Tax Taking



There are a number of ways that a private party can become the owner of your tax lien instead of the city or town. For example, the city or town can bundle tax bills together and sell them to a private party. The city or town can also auction off the tax title to a private party. (For a more detailed description of how a private party can become the owner of your property, see [FAQ #6](#))

4 The Plaintiff Files a Complaint



Usually, once six months have passed after the tax taking or sale of the tax title, the holder of your tax title (the plaintiff) may file a complaint in the Land Court. This begins a foreclosure case.

5

The Court Gives Notice to All Interested Parties



After the plaintiff files a complaint, the Court appoints an independent title examiner. The title examiner prepares and submits a title report to the Court. This report lists those parties with registered or recorded interests in the property. The Land Court then arranges for notice to all parties listed in the report. Sometimes, notice may need to be published in a newspaper.

6

The Property Owner Can File an Answer



If you want to respond to the complaint, you must file an answer in the Land Court before the return date in the notice. You must also serve the answer on the plaintiff. This means notifying the plaintiff in the proper, legal way. After serving the plaintiff, you must also file a certificate of service. This tells the Court that you have, in fact, served the answer on the plaintiff. (See [FAQ #7](#) and [FAQ #13](#))

7

The Property Owner and the Plaintiff Attend One or More Court Hearings



If you file an answer, the plaintiff will ask the Court to determine the total amount you owe (issue a finding). The Court will then schedule a hearing. You will receive a copy of the plaintiff's request for a finding and a hearing notice. This notice will include the time, date, and location of the hearing. At the hearing, you can offer to redeem the property by paying all taxes, interest, and fees owed. You may also raise the issue of your ability to pay certain fees and request a payment plan. You can argue other points against the foreclosure case, too. After hearing both sides, the Court may issue a "finding" about how much you owe and the date by when you will need to pay it. This finding may allow you to get the property back ("redeem") by paying a certain amount by a certain date.

8

The Court Makes a Judgment



If you do not pay the amount back by a certain date, the plaintiff can file a motion for judgment and hearing notice. The Court will schedule a hearing on the Motion for Judgment. At this hearing, the Court may make a judgment of foreclosure. If the Court makes a judgment of foreclosure, your ability to get the property back ends, and the plaintiff gets full ownership of the property. If a judgment of foreclosure enters and you lose ownership of your property, you may seek to recover compensation if the property taken is worth more than you owe. (See [FAQ #18](#) and [FAQ #19](#))



MORE INFORMATION

For more information on tax lien foreclosures, including the FAQs, visit <https://www.mass.gov/land-court-tax-lien-foreclosure-cases-resources>



Tax Lien Foreclosure Primer: Pre-Lawsuit



- When a homeowner fails to pay property taxes (or sewer and water bills) the municipality automatically receives a “tax lien” on the property.
- The municipality may enforce its tax lien by recording a “tax taking” instrument, conducting a “tax sale,” selling a “tax receivable,” or by selling/assigning a “tax title.”
 - Private parties (typically investors) can buy tax receivables or tax titles, and if they do, they step into the shoes of the municipality and can carry out the foreclosure.
- Ultimately, each of these different paths will result in a tax title vesting in the municipality or private party purchaser, who may then pursue collection and foreclosure in the Land Court.

Tax Lien Foreclosure Primer: Pre-Lawsuit



- Interest on the unpaid taxes accrues at a high rate – 14% pre-taking, then 16% post-taking – as mandated by statute. Homeowners may also be held responsible for legal fees and collection costs.
- At any point in the process, the homeowner can “redeem” their title from the municipality or private party by paying what is owed, including all delinquent taxes, interest, costs, and legal fees assessed.
 - Installment payment plans may be negotiated.
- After a waiting period (typically 6 months) the municipality or third party may file a complaint in the Land Court to foreclose the homeowner’s “right of redemption.”

Tax Lien Foreclosure Primer: Land Court Proceedings



- Once legal proceedings begin at the Land Court, the homeowner may still redeem the property and avoid foreclosure by paying what is owed.
 - The homeowner may negotiate an installment payment plan with the municipality or private party, engage in mediation, or pursue other legal or financial solutions.
 - Once a Land Court case is pending, to legally redeem the property, the case must be closed with an endorsed Motion to Withdraw Complaint filed at the Registry.
- The Land Court has statutory discretion on the timing and terms of redemption and, in appropriate cases, may afford the parties time to work out payment plans and redemption arrangements and grant continuances as needed.
- Once the court makes a “finding” on the redemption amount (taxes owed, interest, fees, and costs) the court may set the terms of redemption, which can incorporate a payment plan.

Tax Lien Foreclosure Primer: Redemption or Foreclosure Judgment

- If the property is redeemed, the plaintiff will file a voluntary withdrawal of the Land Court case and a Certificate of Redemption may be recorded or registered, releasing the tax lien and returning full legal ownership.
- If the homeowner is unable to redeem the property, or defaults during the court proceedings, judgment of foreclosure will enter and they will lose ownership of their home and may be evicted.





Tax Lien Foreclosure Primer: What about the “home equity”?

- Until recently, in Massachusetts, foreclosing municipalities and private parties had no obligation to return surplus “equity” to the former owner, even where the value of the home greatly exceeded the debt owed.
- However, [*Tyler v. Hennepin County, Minnesota*, 598 U.S. 631 \(2023\)](#), held that when a taxing authority keeps “excess” or “surplus” funds from a tax foreclosure sale, the authority has made a taking without payment of just compensation in violation of the 5th Amendment of the U.S. Constitution.
- There are several state and federal court cases questioning the effect of the *Tyler* case on Massachusetts tax lien foreclosure law.
 - How the legislature will respond – including potential reforms to chapter 60 – remains uncertain. Several bills and proposals are under consideration.
 - Property owners facing tax foreclosure and their attorneys should be aware of the right to claim compensation for home equity if the property is foreclosed.

Tax Lien Foreclosure: Pro Bono Opportunities



- The Land Court has partnered with the **Lawyers Clearinghouse** to create a **Tax Lien Foreclosure Legal Assistance Referral Program**.
- The program connects homeowners with free legal assistance to help redeem their homes from foreclosure, work out payment plans, or find creative legal solutions to preserve home ownership and home equity.
- The program needs volunteer lawyers willing to take cases.
 - We will be rolling out volunteer training opportunities soon.
- For more information about volunteering, contact:
Sean Thekkeparayil, Esq., 617-544-3434 ext. 110
sthekkeparayil@lawyersclearinghouse.org



Registered Land Fundamentals

Basics & Vocabulary

A brief primer.

For more details, please visit: [Land Court Registered Land Resources | Mass.gov](#)

Land Court Webpage - Registered Land Resources



An official website of the Commonwealth of Massachusetts Here's how you know

Menu Select Language Contrast Settings State Organizations Log In to...

Mass.gov Search Mass.gov

Massachusetts Court System > Land Court

OFFERED BY Land Court Massachusetts Court System

Land Court Registered Land Resources

The Land Court has superintendence authority over the registered land districts in the county Registries of Deeds and plays an important role in facilitating the transfer of registered land property ownership.



TABLE OF CONTENTS

- Overview
- Land Court Guidelines on Registered Land
- Registered land memos from the Chief Title Examiner
- Land Court 2006 Manual of Instructions for the Survey of Lands and Preparation of Plans
- Look up your Land Court case online
- Access registered land court forms and instructions
- Land Court Standing Orders related to registered land
- Contact the Land Court Title Examination department
- More registered land resources

Overview

The Land Court has exclusive, original jurisdiction over the registration of title to real property and over all matters and disputes concerning such title subsequent to registration. Registration of title occurs when the Land Court, after having the title exhaustively searched by a court-appointed title examiner, and after due process is afforded to all interested parties,

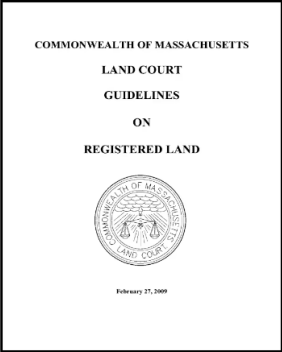
KEY ORGANIZATIONS

Land Court

Address

Land Court Guidelines on Registered Land

The [Land Court Guidelines on Registered Land \(2009\)](#) are a compilation of guidelines to assist registry personnel and the bar in determining the suitability of documents presented for filing with the registry district that affect registered land. The goal of the Guidelines is to offer a consistent, reliable set of requirements across the Commonwealth's registered land districts, which allow more decisions to be made at the registry district level without the need for filing a case at the Land Court. The Guidelines do not supplant the exercise of sound judgment by registry personnel in assessing whether a particular document may be accepted for filing. The registry districts retain the right to refer to the Land Court any question they may have about the propriety of documents presented for filing.



COMMONWEALTH OF MASSACHUSETTS
LAND COURT
GUIDELINES
ON
REGISTERED LAND
February 27, 2009

The Land Court Guidelines on Registered Land were first issued in May 2000 and were last fully revised and recompiled in February 2009. However, the Guidelines are not static. Over time, the Guidelines and corresponding forms have been supplemented and updated. To ensure you are referencing the latest guidance and forms, review the Land Court Guidelines, [Registered land memos from the Chief Title Examiner](#), and forms under [Access registered land court forms and instructions](#).

Additional Resources

 [Land Court Guidelines on Registered Land](#) (English, PDF 601.69 KB)

Registered land memos from the Chief Title Examiner

A list of Land Court registered land memos that update, add to, revise, or explain the Land Court Registered Land Guidelines.

Land Court Webpage - Survey Division & Plans Database



An official website of the Commonwealth of Massachusetts [Here's how you know](#)

Menu [Select Language](#) [Contrast Settings](#) [State Organizations](#) [Log In to...](#)

Mass.gov [SEARCH](#)

[Massachusetts Court System](#) > [Land Court](#)

OFFERED BY [Land Court](#) | [Massachusetts Court System](#)

Land Court Survey Division

The Land Court Survey Division maintains the Commonwealth's registered land records dating back to 1898.

All Land Court Survey Division records are available for public viewing at the Land Court Survey Division offices in the Suffolk County Courthouse, 3 Pemberton Square, Boston, 4th Floor. These records consist of survey plans and Land Court plans, survey data, calculations & correspondence.

Many of the survey records created after 2000 are available electronically. The electronic records can be found by searching on the Public Access website at the link below. The Land Court Public Access website is self-service. Document and plan images can be viewed & downloaded at no cost to the user.

Survey records that are not available electronically on the Public Access website may be requested for a fee by clicking the link below to Order a Survey Plan Reproduction.

Featured resources

[Public Access Search of Survey Records](#)

[Order a Survey Plan Reproduction](#)

[Land Court 2006 Manual of Instructions for the Survey of Lands and Preparation of Plans \(PDF 497.76 KB\)](#)

[Procedure for Pre-file Review of Proposed Subdivision](#)

Massachusetts Trial Court

LAND COURT DEPARTMENT

Survey Division Records Search

[Get started](#)

The Land Court Survey Division maintains a collection of registered land records dating back to 1898. Many of the records created after 2000 are also kept electronically.

These records are available for public review at the Land Court and any records kept electronically can be found by searching on this website. Document and plan images can be read and downloaded. Click on the blue Get Started button to search.

To ask a question, please email: landcourt.survey@jud.state.ma.us

The procedure for requesting copies of images and plans is found at: [Reproduction Request](#)

Registered Land Fundamentals: Comparison to Recorded Land



- Each document affecting title to the property is recorded at the **Registry of Deeds** sequentially, receiving a unique **Book & Page Number**.
- An **Index** of the grantor/grantee and property address is maintained, so you can find each relevant document's book and page number.
- To determine the owner of a given property and its relevant encumbrances, you must conduct a **Title Search**, usually spanning 50 years or more.
- If a controversy or dispute arises, you must bring a court case (typically in Land Court) to resolve it.
- **Title Insurance** may financially protect you from undiscovered adverse claims against the property's title.

Registered Land Fundamentals



Principles of the Land Registration system:

1. Public examination of title.
2. Registration of the title (Land Court decree/ judgment).
 - Survey Plan showing the specific bounds of the property.
3. Issuance of a certificate of title.
4. Re-registration of title on every subsequent transfer.
5. Notice on the certificate of any matter affecting the registered title.
 - *But see*, G.L. c. 185, § 46 and *Jackson v. Knott*, 418 Mass. 704.
6. Indemnity against loss out of an assurance fund.



Registered Land Fundamentals: Benefits of Registered Land



- Certainty of title.
- Certainty of geographical limits shown on registered plan.
 - Demarcation of bounds through set monuments.
- Not subject to adverse possession or prescriptive easements.
- *In rem* adjudication binds the world.
- Protection through the Commonwealth assurance fund.



Registered Land Fundamentals: Basics & Vocabulary



Recorded Land

- Registry of Deeds
 - Register of Deeds
- Book and Page numbers
- Instruments
- Grantor/Grantee Index
- “Margin References”
- “Chain of title”
- “Record”

Registered Land

- G.L. c. 185 (a.k.a “Torrens” system)
- Registered land district
 - Assistant Recorder
- Original Registration/Plan No.
- Certificate of Title No. or Memorandum of Unit Ownership
- “Documents”/Document No.
- “File” or “Register”

Registered Land: Make sure you are on the “right side” of the Registry



[Search Home](#) [Search Criteria](#) [Search Options](#) [Search Help&Support](#) [FAQ](#) [Basket](#) [Select Another Registry](#)

Recorded Land

- [Name Search](#)
- [Book Search](#)
- [Document Search](#)
- [Property Search](#)
- [Recorded Date Search](#)
- [Unindexed Property Search](#)

Plans

- [Name Search](#)
- [Book \(Year\) Search](#)
- [Document Search](#)
- [Property Search](#)
- [Recorded Date Search](#)
- [Unindexed Property Search](#)

Registered Land (Land Court)

- [Name Search](#)
- [Book Search](#)
- [Certificate Search](#)
- [Document Search](#)
- [Property Search](#)
- [Recorded Date Search](#)

Registered Land Plans

- [Name Search](#)
- [Book Search](#)
- [Court Case Number Search](#)
- [Document Search](#)
- [Property Search](#)
- [Recorded Date Search](#)

First Name:

Party Type:

Records Available: 01/01/1973-Current)

For Instructions/Help:

- Download the [Search Instructions](#) PDF for general search information.
- Download the [Image Viewing and Printing Instructions](#) PDF.
- Download the [Download Instructions](#) PDF for Basket details.

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24 New Chardon Street Boston MA 02114
Tel: (617) 788-8575
Fax: (617) 720-4163
Email: suffolk.deeds@sec.state.ma.us
Office Hours for Recording:
Monday-Friday
8:30a.m. - 4:15p.m.

[Secretary of the Commonwealth of Massachusetts \(masslandrecords.com\)](http://masslandrecords.com)

Registered Land: Deed, Certificate of Title, & Memorandum of Encumbrances



Property Address: 4992 Washington Street, West Roxbury, MA 02132

QUITCLAIM DEED

We, Rebecca A. Martinez and Jacqueline Dang, being unmarried, , for consideration paid and in full consideration of Seven Hundred Ninety-Nine Thousand and 00/100 (\$799,000.00) Dollars, hereby grant to Ron Ifrah and Gal Ifrah, a married couple as tenants by the entirety, of 4992 Washington Street, West Roxbury, MA 02132

WITH QUITCLAIM COVENANTS,

A certain parcel of land situated in that part of Boston formerly West Roxbury in the County of Suffolk and Commonwealth of Massachusetts, situated on Washington Street. Said land is shown as Lot 2-A on a subdivision plan drawn by W.C. Bates, Surveyor, dated Mar. 20, 1914, as approved by the Court, filed in the Land Registration Office as Plan No. 4186-C, a copy of a portion of which is filed with the Certificate of Title No. 6103.

Grantors hereby waive and release all rights of homestead that may exist in the above-described premises and swear under the penalties of perjury that no one else is entitled to any rights of homestead therein.

For Grantor's title see Deed recorded with the Suffolk Registry of Deeds, Land Court Department as Document No. 00911628 in Book 00681, Page 75, and see Certificate of Title No. 137075.

The remainder of this page is intentionally left blank. Signature to follow.

SUFFOLK COUNTY REGISTRY OF DEEDS

Transfer Certificate of Title

Cert No: 137503
Book: 683
Page: 103

Document No: 918150

From Certificate No. 137075, Originally Registered October 13, 2020

In Registration Book 681, Page 75 for the Registry District of Suffolk County

This is to Certify that

RON IFRAH and GAL IFRAH of 4992 Washington Street

of West Roxbury in the County of Suffolk and the Commonwealth of Massachusetts, married to each other are the owners in fee simple, as tenants by the entirety of that certain parcel of land situated in **that part of Boston formerly West Roxbury**, in the County of Suffolk and the

Commonwealth of Massachusetts, situated on **Washington Street**.

Said land is shown as Lot 2-A, on a subdivision plan drawn by W. C. Bates, Surveyor, dated March 20, 1914, as approved by the Court, filed in the Land Registration Office as Plan No. 4186-C, a copy of a portion of which is filed with **Certificate of Title No. 6103**.

Memoranda of Encumbrances

Certificate No: 137503

Book: 683 Page: 103

Report Date: 03/26/2021

Document Number	Kind	In Favor Of	Terms	Date of Instrument Date of Registration	Signature	Discharge
918151	MORTGAGE	MORTGAGE ELECTRONIC REGISTRATION SYSTEMS INC	\$599,250.-AS PER NOTE	03/23/2021 03/23/2021 03:28 PM		

End of Document _____ End of Document _____ End of Document _____ End of Document _____ End of Document _____ End of Document _____ End of Document _____

Registered Land: Cancelled Certificate of Title



SUFFOLK COUNTY REGISTRY OF DEEDS Transfer Certificate of Title

Document No: 911628

From Certificate No. 113909, Originally Registered December 16, 1998

In Registration Book 565, Page 109 for the Registry District of Suffolk County

This is to Certify that

REBECCA A. MARTINEZ and JACQUELINE DANG of 1313 Washington Street, Unit 409

of West Roxbury in the County of Suffolk and the Commonwealth of Massachusetts, are the owners in fee simple, as joint tenants of that certain parcel of land situated in **that part of Boston formerly West Roxbury**, in the County of Suffolk and Commonwealth of Massachusetts, situated on Washington Street.

Said land is shown as **Lot 2-A**, on a subdivision plan drawn by W. C. Bates, Surveyor, dated March 20, 1914, as approved by the Court, filed in the Land Registration Office as **Plan No. 4186-C**, a copy of a portion of which is filed with **Certificate of Title No. 6103**.

The above described land is subject to the restrictions set forth in a deed from Mary McLean to Michael A. Saegh dated September 27, 1915, filed and registrsted as Document No. 20291.

Cert No: 137075

Book: 681
Page: 75

137503
3/23/2021

And it is further certified that said land is under the operation and provisions of Chapter 185 of the General Laws and that the title of said

REBECCA A. MARTINEZ and JACQUELINE DANG

to said land is registered under said Chapter, subject, however, to any of the encumbrances mentioned in section forty-six of said Chapter, which may be subsisting, and subject also as aforesaid.

Witness, **GORDON H. PIPER**, Chief Justice of the Land Court, at Boston in said County of Suffolk

the thirteenth day of October in the year two thousand and twenty

at 12 o'clock and 6 minutes in the afternoon.

Attest, with the seal of said Court,


STEPHEN J. MURPHY, Assistant Recorder

Property Address: **4992 Washington Street**
Land Court Case: **No. 4186-C**

CANCELLED

By Document No. 918150

March 23, 2021

See Certificate No. 137503

Registration Book 683 Page 103



Case Search

Click here to start your search



Map Search

Search MassGIS parcel mapping by address

Search Criteria:

Case Number (Primary Search Field)

4186

Plan Number

PFR Number

Plan Filed Date

Choose a date range

Tentative Date

Choose a date range

Towns

Street Name

Surveyor or License No.

Clear Search Criteria



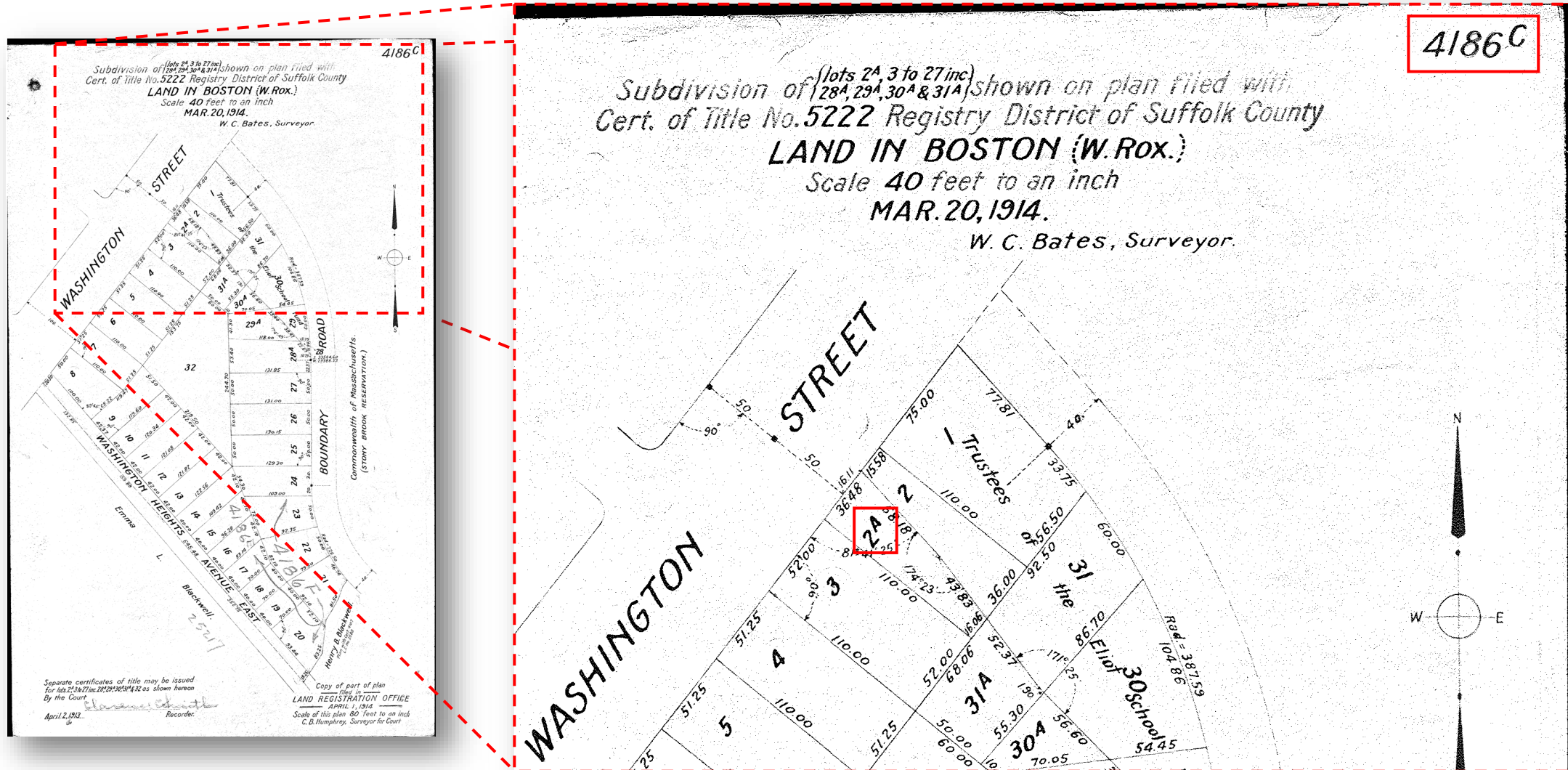
Search

Found 6 matching cases

CASE NUMBER	PLAN NUMBER	TOWNS	TYPE	LAST MODIFIED DATE
> 4186	E	Boston (W. Rox.)	Subdivision	8/4/2023
> 4186	F	Boston (W. Rox.)	Subdivision	8/4/2023
> 4186		Boston (W. Rox.)	Vol.Wthdrwl.	7/23/2021
> 4186	D	Boston (W. Rox.)	Subdivision	8/10/2023
> 4186	C	Boston (W. Rox.)	Subdivision	7/26/2021
> 4186	A	Boston (W. Rox.)	New Registration	7/14/2023



Registered Land: Land Court Plan





Registered Land Fundamentals

Original Registration & Confirmation Cases

A brief primer.

For more details, please visit: [Land Court Registered Land Resources | Mass.gov](#)

Registered Land: Original Registration Case

- Pre-filing review of plan by Survey Division
- Land Court REG case filed
 - Payment of filing fee/costs deposit (\$775) + 1/10th of 1% of assessed value
 - Notice of Complaint recorded at Registry of Deeds
- Title Examiner is appointed to file a complete Abstract of Title and to render opinion as to whether the title is registerable.
- Notice of the proceedings is then issued by the court to every person who appears from any source to have any right or color of claim in the property.

*Fee Generating
Appointment
Opportunity!*



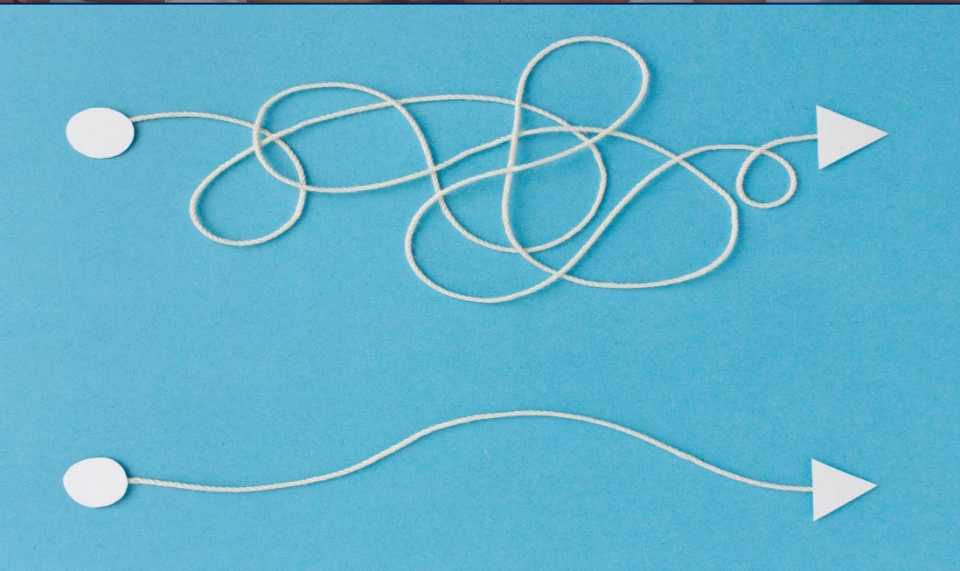
Registered Land: Original Registration Case



- If no adverse claim or necessity for proof of matters outside the record appears, the case is ripe for judgment.
- If there is a contest or dispute, it may be assigned for judicial hearing or trial and determination.
- Upon conclusion, the Land Court prepares an Order for Judgment and directs the Survey Division to prepare a Judgment Plan.
- The Land Court's Judgment and Plan is filed in the Registered Land District of the Registry of Deeds.
- The Assistant Recorder prepares a new Certificate of Title.

Registered Land: Confirmation Case

- Another way to quiet a “messy” title...
- Confirmation is the same process as registration, except when the case is ready for judgment, the land will not be registered.
- The Confirmation Judgment will be recorded and the land will remain recorded, but with title cleared.





Registered Land Fundamentals

Subsequent Cases

A brief primer.

For more details, please visit: [Land Court Registered Land Resources | Mass.gov](#)

Registered Land: Subsequent Cases (a/k/a “S-Cases”)



- Complaints “Subsequent to Registration”
- When you need a court’s determination of title due to voluntary or involuntary changes not reflected on the current Certificate.

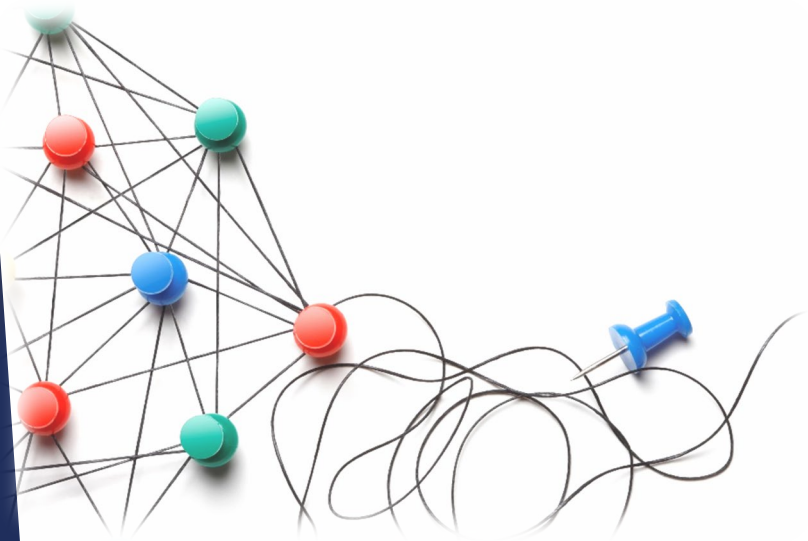
New Certificate...

- “After Death” (some types)
- After Divorce
- Termination of Trust
- Eminent Domain Taking or Tax Taking
- Sheriff Sale

Amend Certificate/Memo...

- Expunge mortgage
- Amend/Cancel/Correct Registry records

Voluntary Withdrawal from Registration





Registered Land: When do I need a Subsequent Case?

- Not every change in title requires an S-case. The **Guidelines** and **Chief Title Examiner Memos** will guide you to the right methods for registering documents.
- Different circumstances and documents require different methods of review for registration:
 1. Local Registered Land District **desk/counter**
 - E.g., a voluntary conveyance from the last Certificate-holder.
 2. Land Court **Document Approval** (typically same day) – see Guideline 55
 - E.g., fiduciary deeds; bankruptcy transfers; pension funds; exception deeds; partition transfers; successor trustees; terminated trusts; foreclosure/*Eaton* affidavits; deeds under power of sale in a will.
 3. Land Court **Condominium Approval** – see Guideline 12
 4. Land Court **S-Case** – The court will try to use the approval procedure if possible. But, if notice is needed, it will have to be an S-case.

Registered Land: Subsequent Case Procedures



- Draft and submit Complaint and Cover Sheet
 - Land Court Forms: [Land Court forms | Mass.gov](#)
 - Chief Title Examiner Memo: [Procedures for the Processing of Subsequent Cases, Condominium Documents & Document Approvals | Mass.gov](#)
 - \$50 fee
- Submit the current Certificate of Title (or last prepared Certificate and deed) and all supporting documentation .
 - E.g. probate documents, off-record trust, bankruptcy filings, death certificate, etc.
- Know your Case Number/Plan Number:
 - [Year] SBQ [Original Registration No.] [Month] – [Sequence No.]
 - E.g. A case filed this month for a lot on Plan No. 12345 would be:
24 SBQ 12345 04 – 001

Registered Land: Subsequent Case Procedures

*Fee Generating
Appointment
Opportunity!*



- Some cases require the appointment of an external title examiner.
 - The court will review and assign the case internally once the title report has been filed.
- One of the court's Attorney Title Examiners will be assigned to the case.
 - They will review the file to determine if the relief requested can be granted and work with a Land Court Judge on a court order.
 - If more documentation is needed, they will work with the Plaintiff.
 - Internal examiner assignments may be delayed. The court is working through its inventory of cases.
- Court notice may be necessary, unless all parties can be found and have assented to relief.
 - Letters of diligent search; Citation; Sheriff; Publication...

Registered Land: Subsequent Cases

- If the matter becomes **contested**, it will be assigned to a Land Court Justice and proceedings will proceed like other contested cases before the Court.
- If relief can be granted, a Judge will issue an **Order of Court** directing the Registry to issue a new Certificate or amend an existing one or **Endorse a Memorandum** allowing withdrawal.



Practical Tips for Navigating Registered Land Issues



- If you have a title issue involving registered land, you need to come to the Land Court for an S-Case (G.L. c. 185, § 1(a ½)).
- Subdivision plan approvals involving registered land must be brought to the **Survey Division first**. You may not need an S-Case. The Survey Division will let you know if you do.
 - [Instructions for Pre-file Review of Proposed Subdivisions of Registered Land](#)
- If there are unresolved probate issues, your “After Death” case may be premature, see [Land Court Standing Order 1-21](#).
- **Do not wait until the “eve of closing” to file an S-case.**
 - An S-Case can add lengthy delays to transactional time frames and the Court can not treat every case as an emergency.
 - We have an inventory of cases we are working through, so plan ahead!
- When in doubt, read the Guidelines and Chief Title Examiner Memoranda. If still unsure, call the Court for guidance.



Practicing before the Land Court Justices

Miscellaneous Cases

Miscellaneous (MISC) Cases

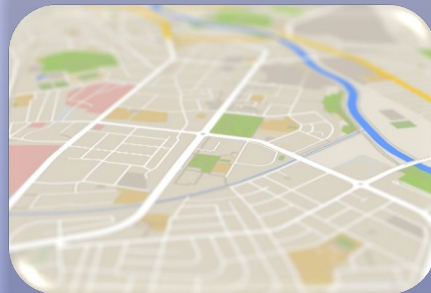
Major Categories

Miscellaneous (MISC)

Title
~50%



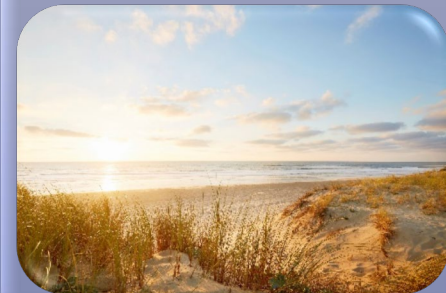
Zoning
~15-20%



Partition
~15-20%



Other
~10-20%



Miscellaneous (MISC) Cases

Title Cases



- Remove a cloud on title (quiet title), c. 240, § 6-10
- Discharge mortgage, c. 240, § 15
- Try title, c. 240, § 1-5
- Writ of entry, c. 237
- Validity of encumbrances, c. 240, § 11-14
- Enforce restrictions, c. 240, § 10A-10C
- Determine fiduciary authority, c. 240, § 27
- Trespass involving title
- Equitable actions “where any right, title or interest in land is involved”
 - E.g.: Adverse possession; prescriptive easement; boundary dispute; etc.
 - **Declaratory judgment actions** (concerning real property), c. 231A, § 1A
- Affirm low value tax foreclosure, c. 60, § 80B
- Redemption from tax taking prior to petition to foreclose, c. 60, § 76

Miscellaneous & Permit Cases

Land Use/Zoning

- Zoning validity, c. 240, § 14A
- Zoning appeals, c. 40A, § 17
- Zoning enforcement, c. 40A, § 7
- Planning Board subdivision appeals, c. 41, § 81BB
- Affordable housing comprehensive permit appeals, c. 40B, § 21
- Certiorari, c. 249, § 4
- Mandamus, c. 249, § 5

Permit Session

G.L. c. 185, § 3A - “...only if the underlying project or development involves either **25 or more dwelling units** or the construction or alteration of **25,000 square feet** or more of gross floor area or both.”

All the above zoning statutes *plus:*

- Boston zoning appeals, St. 1956, c. 665
- Conservation, environmental, waterways, historic, endangered species, etc.



Miscellaneous (MISC) Cases

Partition & “Other” cases



- Partition, c. 241
- Determine municipal bounds, c. 42, § 12
- Determine boundaries of flats, c. 240, § 19
- Specific performance of real estate contracts
- “Ancillary jurisdiction”
 - The authority of the Land Court to hear a matter and award damages on a tort-based theory where damages are ancillary to claims related to any right, title, or interest in land.
- Interdepartmental assignment
 - Case that falls outside Land Court jurisdiction assigned from another Trial Court department by the Trial Court Chief Justice.
 - G.L. c. 211B, § 9 & Trial Court Rule XII

Do NOT bring these cases to the Land Court...

- Boston zoning appeals (unless Permit Session)
- Conservation commission or other environmental permit appeals (unless Permit Session)
- Nuisance or Trespass (that doesn't involve title)
- Partition property held in trust
- G.L. c. 93A unfair business practices
- Trust dissolution and successor fiduciaries
- Abuse of process or tortious interference
- Eviction and landlord-tenant disputes



Miscellaneous (MISC) Cases Basics



- Assigned to individual Justices on a rotation.
 - The judge stays with the case through its lifetime.
- No juries. All matters are tried to the bench.
 - See G.L. c. 185, § 15 for “framing questions” to Superior Court jury. The time requirements are tight and the process is cumbersome.
- Most non-trial events are held in Boston, by phone, or by Zoom.
 - Some events may be held in local courts for the convenience of parties and witnesses.
- The Land Court can and does frequently take a “view” of the property at issue.



Peter Hingorani



Barbara Hoey



Maurice Mason



Hon. Robert Foster (he him ...



Sunil Lulla



Scott Machanic

zoom

0:03 / 33:29



Judge Foster Trial Session - 19 MISC 000533, 19 MISC 000534, & 20 81CV 00149 Hingorani v. Lulla

67



MA Trial Court - Land Court 1
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Miscellaneous (MISC) Cases Specialized Land Court Rules



- Mass. Rules of Civil Procedure apply.
- Some specialized [Land Court Rules](#) apply as well:
 - Motions practice under LC Rule 4 (dispositive), LC Rule 5 (non-dispositive), and Rule 6 (“on the papers”).
 - LC Rule 7 – Conference requirement and certification for discovery dispute motions.
 - LC Rule 10 – Judge’s endorsement/approval of Agreements for Judgment.

Miscellaneous (MISC) Cases

Land Court Rule 14



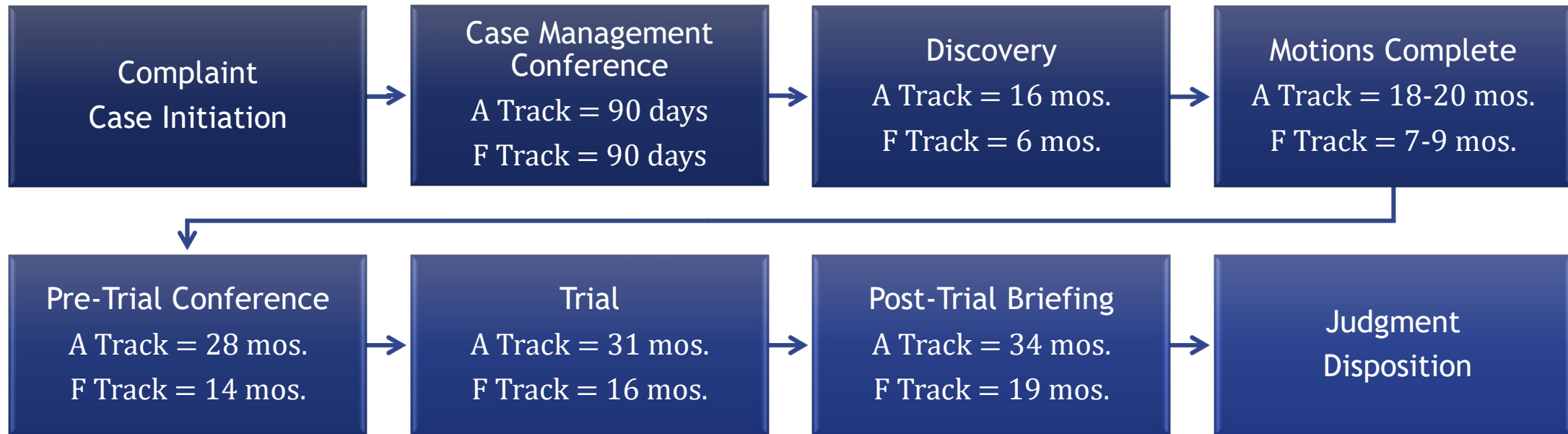
Binding summary decision following bench trial; Waiver by parties of detailed findings of fact and rulings of law.

- A practical, low-cost way to resolve a case by trial.
- Allows parties to stipulate that the Judge may render a decision after trial without finding facts specially and without stating separately the court's conclusions of law (see R. 52(a)), thereby permitting a prompt decision on the ultimate issues tried.
 - a) Judicial approval & parties' consent is required.
 - b) Judge will render a decision in writing and orally on the record (similar to MRCP 49(a) special jury verdict form), answering special questions on each element of a claim.
 - c) Before trial, the parties (along with the Judge's input and guidance) will settle their stipulation and the form of any questions of fact for the court to answer.
 - Parties (i) "waive all arguments...on appeal that require or depend upon the existence of detailed written findings of fact" and (ii) agree that the standard of review on appeal is same as applicable to a jury verdict.
 - d) The Judge retains discretion on whether to employ Rule 14.



Miscellaneous (MISC) Cases Typical Litigation Timeline

- Fast (“F”) Track – Cases with statutory priority, incl. G. L. c. 40A, § 17; c. 40B; and c. 41, § 81BB; specific performance; and partition
- Accelerated (“X”) Track – upon motion on a case-by-case basis
- Average (“A”) Track – everything else



Practicing before the Land Court Justices

Practical Tips



Practical Tips for Practitioners

Should I file in Land Court?

Consider these **red flags**...

- Will you try to assert a jury claim?
- Do ‘ancillary’ claims dominate?
- Have you exhausted remedies? Are the claims “ripe”?
- Are there related claims pending in another trial court?
- Partition: does the matter involve domestic relations (unmarried romantic partners) or active probate issues?



Practical Tips for Practitioners Case Management Conference (CMC)

- You must prepare and file a *joint* CMC Statement.
- Read the Court's CMC Notice & Order carefully and address all parts in the joint statement.
- If you have relevant survey plans, submit them in advance in full-size and/or bring them to the conference.
- Be prepared to discuss scheduling and mediation.



Practical Tips for Practitioners

Default Judgments



- A defendant's R. 55(a) default alone is not enough to obtain a R. 55(b) judgment in Land Court.
- You must affirmatively show plausible entitlement to relief and admissible facts proving each element of your claim.
 - Your Complaint must contain sufficient, well-pleaded facts and be **verified** or you must file appropriate affidavits.
- Conclusions of law are **not** admitted by default.
 - The relief requested must not exceed what is pled or shown by affidavits.
- Must file: (1) sufficient proof of service, (2) R. 55(b)(1) affidavit, and (3) R. 55(b)(4) [Military Affidavit form](#).
- If the court decides to hold a hearing, Plaintiff must give at least 14 days' notice to any personally served Defendants, R. 55(b)(2).
- If granted, the default judgment must be sent to the Defendants.

Practical Tips for Practitioners Diligent Search & Service by Publication



- When you are unable to serve by summons or alternate methods, you may move for service by publication.
 - File a motion and affidavit of diligent search showing reasonable efforts to locate and serve defendants.
- An appropriate diligent search must review not only Registry records, but, for individuals, also Probate & Family Court records, vital records, and obituaries. **The internet is your friend!**
 - Certain cases and relief (e.g. in rem) may also require genealogical research.
 - Don't forget putative heirs and lien holders!
- Where corporate entities are involved, diligent search must include updated registered agent research or, if applicable, failed bank and defunct corporations searches.



Practical Tips for Practitioners

Partial Summary Judgment



- Be thoughtful about whether to file a motion for partial summary judgment.
 - Such motions take considerable attorney time to brief and argue, and court time to review, hold argument, and decide.
 - If denied due to disputed material facts, then the time was spent without gain.
- Don't bring the court a battle of affidavits.
 - That is more likely to lead to disputed material facts requiring credibility determinations and trial.
- Raise the prospect of such a motion early with the presiding Judge. The Judge can share their views on the feasibility and risks of the motion.



Practical Tips for Practitioners Agreements for Judgment

- Filing an Agreement for Judgment “shall not constitute the judgment of the court unless and until the court...endorses or otherwise approves the agreement for judgment,” LC Rule 10.
 - Alternative: Stipulation of dismissal and private settlement agreement.
- Judges will be reluctant to “approve” Agreements for Judgment if:
 - The agreement contains factual stipulations or legal conclusions where the court has not engaged in independent fact finding or rulings of law;
 - The relief provided exceeds the scope of the pleadings or the court’s power; or
 - The court would be involved in extensive policing of the agreement through contempt proceedings.
- Parties may enter into Agreements for Judgment without Rule 10 approval, which is the equivalent of a stipulation to dismiss the case and abide by a private agreement.

Practical Tips for Practitioners Land Court Legal Research



- **Land Law** publishes the [Massachusetts Land Court Reporter](#).
 - Official “LCR” citations to all the Land Court’s published decisions.
 - Commentary, case notes, and subject-matter indexing.
- Lexis & Westlaw also have all Land Court published decisions.
- [Social Law Library](#) also has a database of the court’s published decisions and a repository of all the court’s written orders.
 - This is a great resource if you’re looking for a particular type of order or “boilerplate” as an example.
 - E.g. a nisi order; partition warrant; remand order; bond order; etc.
 - Also indexed by type of order and by Judge name.
 - Searching can be more limited.

Practical Tips for Practitioners Zoom Court Events



- Decorum = same as courtroom.
 - Dress professionally.
 - Use a quiet space and a professional background, green screen, or blur.
 - Address the court and all participants (including the Clerk) formally.
- Assume you are being seen and heard at all times ("hot mic").
 - Learn the Zoom controls for mic (mute) and camera.
- Test your equipment before the event. You may ask the Court's Sessions Clerk for a pre-event test or practice.
- Learn and practice screen sharing documents. Don't overshare.
- Prepare and practice Zoom usage with your clients and witnesses.





eFiling in the Land Court

For more information, please visit: [eFiling in the Land Court | Mass.gov](#)



eFiling in the Land Court: Basics

- eFiling is (or will be) **MANDATORY** for attorney filers in the following Land Court case types:
 - Servicemembers (SM) cases – mandatory
 - Tax Lien Foreclosure (TL) cases – mandatory
 - Miscellaneous (MISC) cases – *mandatory beginning May 1, 2024*
- Self-represented parties are permitted, but not required to eFile.
- Tyler Odyssey File & Serve: [eFileMA | Massachusetts Court System](#)
 - You must register for an account with your BBO-registered email address.
 - There is a one-time fee of \$22.⁰⁰ charged at case initiation (convenience charges apply). After that, there are no additional eFiling provider fees.
 - eFiling into an existing case is free.

eFiling in the Land Court Rules, Standing Orders & Procedures



SJC Rule 1:25

- General Rules applicable to eFiling in all court departments.

Land Court Standing Order 2-23

- Land Court case types for which eFiling is permissive or mandatory.
- Future expansions noted on website.

Land Court Standing Order 1-23

- Specific procedures, standards, and guidelines for eFiling in the Land Court.
- Paper **courtesy copies required** for Complaints, Plans, and filings over 20 pages.
- Explains how to make ex parte and emergency filings electronically.
- Prohibits eFiling impounded information. Follow [Trial Court Rule VIII](#).
 - Redacted filings ([SJC Rule 1:24](#)) and indigency fee waiver request filings are allowed.
- Explains waiver of court fees and allowance of electronic service under M.R.C.P. Rule 5 (not service of process/summons under Rule 4).



Electronic court notices (eDelivery)

- All attorneys are “opted-in” automatically to receive court notices electronically at their BBO-registered email.
 - Self-represented litigants may opt-in to receive court electronic notices.
- Expansions are in progress. Some court notices may still be sent by mail or email.
- All court filings, orders, docket entries and images are viewable on **eAccess**
<https://www.masscourts.org/>

Many Land Court notices are now eDelivered, including:

- Event notices
- Notice of docket entry
- Notice of Judge & Track Assignment
- CMC Notice & Order
- PTC Notice & Order



In-House Mediation

Part-time program started in January 2020 and converted to a full-time program in May 2023.



Land Court In-House Mediation

Barbara J. Macy, Esq., **LAND COURT MEDIATOR**

- No cost mediation available on a court-referral basis only with **priority** given to cases where **one or more parties are indigent or self-represented** or where the parties have previously attempted mediation unsuccessfully.
- Handles a variety of real property disputes, including partition (about 1/3 of cases), adverse possession, tax lien foreclosure, title and ownership disputes, easement and boundary disputes, and purchase and sale contract disputes.
- The program is subject to availability and currently has a high demand.





Fee Generating Appointments

For more details, please visit: [Learn About Fee Generating Appointments in the Land Court | Mass.gov](#)

Fee Generating Appointment (FGA) Basics



- “Fee generating appointments” are appointments by a court that will generate a fee for the person appointed, paid either by the court or by the party involved.
 - In some cases, the fee payable is set by the court (tax title reports, \$250).
 - In other cases, the fee is the attorney’s usual and customary hourly rate for similar legal services.
- The court appoints an individual from a sequential list based upon the skills, expertise, and experience that individual can bring to the case.
- FGAs in Land Court cases are impartial attorneys qualified to serve in the appointed role, chosen sequentially from regional lists maintained by the Court.
- Appointees are subject to the requirements of [Supreme Judicial Court Rule 1:07](#), including the requirement to file fee accounting statements certifying the services provided, amount of payment, and itemization of expenses.



Fee Generating Appointment (FGA) Appointment Types and Skills Needed

- **Partition Commissioner** – 10 years experience in real estate law; 3 cases involving partition (at least 1 to completion).
- **Title Examiner (Tax)** – 3 years experience in real estate conveyancing; familiarity with c. 60 tax lien foreclosure cases.
- **Title Examiner (REG)** – 3 years experience in real estate conveyancing; familiarity with c. 185 original registration/confirmation cases.
- **Title Examiner (SBQ)** - 3 years experience in real estate conveyancing; familiarity with conveyancing law involving registered land under c. 185.



Fee Generating Appointment (FGA) Appointment Types and Skills Needed

- **Guardian ad Litem** – 3 years experience in real estate law; familiarity with Land Court cases involving G.L. c. 185, c. 240, c. 241, and c. 60.
- **Military Attorney** – 3 years experience in real estate law; familiarity with the requirements of the Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901 *et seq.*, and Chapter 57 of the Acts of 1943, as amended.
- **Other ancillary appointment roles** – E.g. Master, Receiver, Trustee, etc., are appointed from the existing lists.

Fee Generating Appointment How to Apply



- To apply for membership on any Land Court FGA list, submit:
 - A completed [Land Court Application Form](#);
 - A resume setting forth educational background, year of admission to the bar, and experience in the required fields;
 - Two (2) letters of recommendation from members of the Massachusetts bar familiar with the applicant's work;
 - A sample abstract of title (if you are applying to be eligible for title examiner appointments in TL, REG, or SBQ cases);
 - A Certificate of Good Standing as a member of the Massachusetts bar, issued within the last thirty (30) days.
- Applicants may submit their application materials by email to the Land Court Recorder's Office, attention: Mary Armstrong, Assistant Clerk at LandCourt.FeeGenAppt@jud.state.ma.us

Questions?



Hon. Gordon H. Piper, Land Court Chief Justice
Lauren Reznick, Land Court Legal Counsel

[Land Court | Mass.gov](https://www.mass.gov/land-court)